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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
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Review of the Commission's	)	MM Dkt. No. 91-221
Regulations Governing Television	)	
Broadcasting	)	

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FEDERAL COMMUNICATIONS COMMISSION
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To: The Commission

COMMENTS OF CEDAR RAPIDS TELEVISION COMPANY

CEDAR RAPIDS TELEVISION COMPANY

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SUMMARY

Cedar Rapids Television Company ("CRTV"), licensee of KCRG-TV and KCRG(AM), Cedar Rapids, Iowa, submits its comments in response to the Commission's Further Notice of Proposed Rulemaking in Docket No. 91-221. CRTV is a subsidiary of The Gazette Company, publisher of The Cedar Rapids Gazette.

Based on the multiplicity of media voices in its own community today, which is typical of markets its size, CRTV believes that the Commission's restrictions on television duopoly and its Grade B overlap standard are no longer appropriate. The Grade B overlap standard works to the disadvantage of stations, such as KCRG-TV, that serve broad expanses of sparsely populated territories. Further, permitting common ownership of more than one television station in the same community actually can increase diversity of viewpoints by permitting the viability of stations that otherwise might remain dark.

CRTV also supports the Commission's proposal to eliminate completely the one-to-a-market rule. Economies of scale in TV-radio combinations allow the continuation of small radio stations and, thus, a multiplicity of information sources.

The demonstrated diversity of voices in the market also calls into question the continued need for the Commission's

broadcast/newspaper cross-ownership rule. Today's "marketplace of ideas" is sufficiently active and diverse that the Commission need no longer fear undue control of a market by a broadcast licensee that also publishes a local newspaper. Further, the rule may stifle development of "electronic newspapers."

As to Local Marketing Agreements ("LMAs"), CRTV believes that LMAs can benefit the public by permitting operation of small stations that otherwise might not survive the intense competition from better financed operators. Rules analogous to the Commission's radio LMA restrictions would not be appropriate, however, absent changes to the television duopoly rule.

Finally, CRTV supports only modest changes to the national ownership rule. Concentration of power in the hands of national networks could harm the delicate balance between licensee and network.

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Review of the Commission's Regulations Governing Television Broadcasting	)	MM Dkt. No. 91-221
	)	
	)	

To: The Commission

COMMENTS OF CEDAR RAPIDS TELEVISION COMPANY

The Cedar Rapids Television Company hereby submits its comments in response to the Commission's January 17, 1995 Further Notice of Proposed Rule Making in the above-captioned proceeding.

I. Background

The Cedar Rapids Television Company ("CRTV") is located in Cedar Rapids, Iowa, designated by the A.C. Nielsen Co. as television market 84.[1] CRTV is the licensee of television station KCRG-TV, Channel 9, an ABC affiliate, and KCRG(AM), a

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[1] Since the Arbitron Company no longer surveys television markets, the Arbitron term "ADI" (or "Area of Dominant Influence") is obsolete. Nielsen remains as the only television ratings company, so the Nielsen term "DMA" or Dominant Market Area should be used to refer to groups of counties where at least 50% of the viewing as measured over eight consecutive rating periods is attributable to stations licensed to a designated market. We would therefore suggest that the FCC replace the term "ADI" with "DMA" to reflect the fact that Arbitron is no longer measuring ADI's.

news and talk format radio station. Both are licensed to Cedar Rapids.

CRTV is a wholly owned subsidiary of The Gazette Company, publisher of the Cedar Rapids Gazette, a daily newspaper published in Cedar Rapids and serving surrounding counties. CRTV has operated KCRG-TV and KCRG(AM) since both stations signed on -- KCRG(AM) in 1948, and KCRG-TV in 1953.

KCRG-TV is the only locally owned and operated television station in the Cedar Rapids-Waterloo-Dubuque DMA. All other stations in the market are owned by group operators with headquarters in other states.

II. CRTV's Local Market

The Cedar Rapids-Waterloo-Dubuque market is an example of the media diversity to be found in today's typical medium-sized television market. This market, as defined by Nielsen, includes four VHF network affiliates: KCRG-TV (ABC), KGAN (CBS), KWWL (NBC), and KIIN (PBS), plus UHF network affiliates KDUB-TV (ABC) and PBS affiliate KRIN-TV. In addition, UHF station KOCR maintained a Fox primary affiliation until going off the air, apparently for economic reasons, in October 1994.

The FCC's table of allocations also includes the following UHF channel assignments, which are not on the air:

Channel 22, Waterloo; Channel 48, Cedar Rapids; Channel 20, Iowa City; and Channel 16, Dubuque.

Low power TV assignments in the area include: K45CW, Cedar Falls; K20CR, K45CR, K56DW, K61FF, K66DS, Cedar Rapids; K51CR, K62DJ, K64CS, K53CV, Dubuque; K36CF and K64DG, Iowa City; and K61CN and K61BY, Waterloo.

The Cedar Rapids-Waterloo-Dubuque DMA is also served by 14 daily newspapers, 56 weekly newspapers,[2] and 77 AM and FM radio stations.[3] The video marketplace is additionally served by: 141 cable television systems[4] offering from 12 to 75 channels; and DirecTV and Primestar, which offer up to 200 channels of video programming, including ABC, NBC, CBS, and Fox programming to homes any "white areas" that exist within the market.

TV signals "spill" into the market from adjacent markets, including Des Moines, Davenport-Rock Island-Moline, La Crosse, Madison, and Rochester-Mason City.

Total cable television penetration for the market is 61%.[5] In addition, the U.S. West Telephone Company and McLeod Technologies both have announced plans to deliver

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[2] Editor and Publisher, 1994.

[3] Arbitron Company, Cedar Rapids-Waterloo-Dubuque, Spring 1994 Survey.

[4] KCRG-TV survey of cable television systems.

[5] Nielsen "Viewers in Profile" rating survey, February 1995.

video programming and other information services in the Cedar Rapids market.

Even without considering emerging new technologies (such as the Internet, with 26-million users) and "information on demand" services, it is apparent that the public in CRTV's market has at its command a vast diversity of news, information and entertainment sources.

III. Competition in the Advertising Marketplace

Advertisers frequently use mixtures of radio, television, direct mail, print, cable, telemarketing (a major industry in Cedar Rapids), and other media services to reach their customers. These mixtures constantly change to reflect the unique marketing demands of each advertising campaign. Media entities compete fiercely for their "share" of these advertising dollars, attempting to persuade advertisers that their respective media are the most effective in terms of customer response and efficiency. For this reason, CRTV suggests that all of the foregoing media be considered as competitors to broadcast television when considering the need to maintain diversity in the individual market places.

IV. Competition in the Programming Marketplace

The broadcasters of this country compete with cable operators, DBS, MMDS, and now, telephone companies, for programming. In the Cedar Rapids market, for example, Cox Cable, the local franchise holder, operates VHF Channel 8 on its system just like an independent television station, identifying itself with the unofficial call letters "KCOX." Where no over-the-air affiliate is available, cable television systems carry "Fox Net" complete with Fox network programming, local sales, news, and programming services. This is the case in Waterloo and Dubuque, Iowa, and many other communities within the Cedar Rapids-Waterloo-Dubuque DMA. In addition, many multichannel operators are operating similar "stations" in their franchise areas, and, like broadcast stations, are carrying syndicated, local, and network programming. It is safe to assume that new entrants to the video marketplace will do the same. Thus, there should be little fear that any individual station can exert undue leverage when negotiating for programming.

V. Local Ownership Rule

Given the huge number and diversity of information sources available in Cedar Rapids and similar markets, the

FCC's present prohibition of Grade B overlap between commonly-owned television stations is no longer appropriate.

Residents of areas such as Cedar Rapids are particularly disadvantaged. In order to cover areas of low population density, like Iowa and other midwestern markets, stations must operate from tall towers with high power. Often the large signal areas of distant stations overlap, but usually in sparsely-populated areas.

The current rules thus work an unfairness on licensees in such markets. Even though the respective cities of license may be 150 or more air miles apart, and even though there is little overlap either of audience or potential advertisers, the current rules treat two such stations as though they were virtually next door to each other. Thus, CRTV supports the Commission's suggestion that ownership interests be permitted in stations with overlapping Grade B contours, and that a relaxed standard, such as Grade A contour overlap, be adopted.

CRTV also supports the concept of allowing joint ownership of more than one television station in the same market. We believe there are sufficient safeguards available through the antitrust laws to assure that no single entity gains too much market power.

Television broadcasters must now compete in a multichannel market. Joint ownership would allow them to achieve economies of scale to permit operation of stations which would otherwise not be viable. (As an example, we point to the large number of construction permits granted in the Cedar Rapids-Waterloo-Dubuque market which, although granted, have not been built).

KCRG-TV and other local, over-the-air television stations now must compete with TCI, which operates the only cable systems in Waterloo, Dubuque, and Iowa City, and is the largest cable operator in Iowa; and Cox Cable, which operates the only cable systems in Cedar Rapids and the adjacent Quad Cities markets. We recently learned that Cox and TCI are discussing plans to swap systems recently acquired through mergers to create large, interconnected systems within the market.

As of May 1, 1995, Cox and TCI together control 68.7% of all cable television households in the 23-county DMA.[6] Cable operators presently have no regulatory prohibition against combining systems to achieve economies of scale, even though the Commission and the Congress have found that cable operators in all but a handful of markets are "de facto monopolies."

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[6] Source: Arbitron & Nielsen Ratings Services and KCRG-TV survey of television cable systems. TCI operates 18 systems throughout the Cedar Rapids-Waterloo DMA (Nielsen) serving 78,734 subscribers. Cox Cable's Cedar Rapids area systems serve approximately 45,000 subscribers. Together, TCI and Cox control 123,734 of the DMA's 185,055 cable households as of February 1995.

In the future, television stations in our market also will have to compete with U.S. West. This locally and federally regulated telephone monopoly plans to offer multichannel television service in the market.

To continue to be economically viable and to compete with increasingly concentrated alternative program providers, local broadcasters will need the flexibility permitted by ownership of more than one station in a market. Not only would the stations' viability be more promising as a result of shared costs, but program diversity likely would be increased.

In this connection, CRTV sees little reason to differentiate between UHF and VHF stations when considering allowing joint ownership of more than one station in a market. First, the Commission must look ahead to the day when _all_ broadcasters will be required to operate a second, UHF channel to provide HDTV service during a period of transition to advanced TV. Further, a look at the comparative success of the Fox television network, which has many, many UHF affiliates, also shows that in the 1990's and beyond, it will be the quality of programming offered rather than UHF or VHF signal transmission which will determine whether over-the-air broadcasters succeed or fail.

The Commission also seeks comment on whether some standard should be established for the number of independent suppliers that would be left after an acquisition or merger. CRTV believes 10, as suggested by the Department of Justice and Federal Trade Commission, and which is often used by the FCC as a standard, is sufficient. Subscription-based media should be included in the number, since cable, MMDS, DBS, and now telephone companies, are all subscription-based media, and they account for a growing share of audience viewing (presently 37.5% of viewing in the U.S., according the Commission's FNPRM).

CRTV supports the Commission's proposal to eliminate the one-to-a-market rule entirely. As CRTV previously pointed out, there is a wealth of diversity in our local market, and the number of voices is growing rapidly. With 77 radio signals operating within the DMA, allowing common ownership of television and radio stations will do little to reduce that diversity. Even if each of our market's four operating commercial television stations owned the maximum number of radio stations now allowed by the Commission's radio rules (2 FM and 2 AM), there would still be 61 signals owned by others in the market.

As the operator of a relatively small AM radio station, CRTV is very familiar with the challenges of maintaining economic viability within the huge diversity of competing media available today.[7] We can say with confidence that KCRG(AM), with its public service oriented all-news and talk format, would have gone off the air many years ago if it were not for the economies of scale allowed by CRTV's grandfathered common ownership of a television and radio station.

The AM station shares management, traffic, and technical staff with the television station, while maintaining a separate news and programming staff. We believe that, rather than diminishing program diversity, joint ownership of radio and TV stations in the same market helps to maintain the maximum number of voices available to information consumers.

CRTV also believes that a requirement of 20 remaining broadcast licensee "voices" would be appropriate in light of the large number of alternative providers now in existence.

VI. <u>Broadcast/Newspaper Cross-Ownership Rule</u>

As demonstrated above, the extensive range of alternative voices available in our market calls into question the continued need for many of the Commission's television ownership rules. CRTV respectfully submits that

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[7] KCRG(AM) operates at 1600 kHz with 5,000 watts in Market #197, according to the 1994 Arbitron radio rankings.

this conclusion applies with equal force to the Commission's broadcast/newspaper cross-ownership rule.

The Commission has prohibited the owner of a daily, English-language newspaper from having an interest in a television or radio facility whose signals envelop the newspaper's city of publication. The original rationale given was a desire to assure that a daily newspaper did not exercise undue control in the marketplace of ideas in its home city. Whether one agrees or disagrees with that logic, the sheer number of media outlets in the Cedar Rapids-Waterloo-Dubuque market, or any other market today, makes continuation of the newspaper cross-ownership prohibition unnecessary. Thus, CRTV believes the newspaper cross-ownership rule should be eliminated.

The Commission is considering rules which will soon allow broadcasting stations to broadcast digital streams of data which will allow them to become "electronic newspaper publishers." It will be a simple matter to create and print out an electronic equivalent of a newspaper printed using paper and ink. The present rule could be interpreted to prohibit stations from doing so. Arguably, some television stations may, and probably will, have the financial resources to create conventionally printed newspapers to compete with other daily newspapers in their markets. The Commission's existing newspaper cross-ownership prohibition could actually stifle competition with daily newspapers.

While not literally within the scope of this proceeding, the broadcast/newspaper rule should be reexamined for the same reasons the FCC has undertaken its evaluation of the television rules.

VII. Local Marketing Agreements

Although there are presently no television Local Marketing Agreements ("LMA's") in the Cedar Rapids-Waterloo-Dubuque market, CRTV believes television LMA's should be permitted and that no new rules regulating LMA's are necessary.

There is no evidence of any abuse of power by broadcasters who employ LMA's. Indeed, CRTV believes that LMA's provide important economic benefits. We point again to the number of CP's in our market that have not been built as examples of the economic difficulty faced by independent, over-the-air stations which might try to compete with large, well-financed broadcasters, cable systems, telephone companies, and other television programming providers. Particularly in small markets, LMA's allow stations, which otherwise might never be viable, to sign on and operate.

CRTV believes television LMA's actually contribute to the Commission's goal of providing diversity in markets by maintaining separate ownership of the brokered station while allowing it to contract with others for portions of its programming. The Commission's rules are sufficient to assure that owners of stations with LMA's maintain control of their programming and are responsive to the needs of their communities.

Radio LMA rules, while instructive, are not appropriate for television absent further changes. CRTV believes the radio LMA rules were crafted to prohibit one operator from programming more than four stations in a market, the maximum number permitted under the Commission's revised radio ownership rules. The basic premise of the radio LMA rules -- "if you can't own it, you can't LMA it" -- should not be applied to television without changes to the television duopoly rules. Unless the Commission relaxes its television ownership rules in the same manner that it has already relaxed the radio ownership rules, few LMA's would be permitted.

CRTV has stated its support for significant relaxation of local television ownership rules, and it believes that LMA's should operate under those same relaxed rules. If the ownership rules are relaxed, LMA's resulting in one station programming more than 15% of another station's program schedule should be counted as attributable interests in other stations in the market. The key point is that the Commission should tie any new LMA rules to corresponding changes in the ownership rules.

CRTV supports the Commission's suggestion that copies of LMA agreements, with confidential information redacted, should be filed with the FCC and placed in the station's public file. CRTV regards an LMA as an agreement similar to that between a station and a network. Since other affiliation agreements currently must be filed appropriately, LMA agreements should follow the same rules.

VIII. National Ownership Rule

CRTV supports only minor changes in the national ownership rule. Our hesitancy derives from our fear of concentration of power in the hands of the national television networks. As a network affiliate, we are familiar with the tremendous power a network can wield over its affiliates.

The Commission in the past has recognized that power by crafting rules which permit affiliates to reject network programming and to replace it with programming they find to be of greater local interest. If a few large broadcasters, including the television networks, are allowed to own an unlimited number of stations and to reach up to 50% of the national audience, the networks may well be able to bypass local stations, or use their newly-won audience reach to intimidate non-owned stations into carrying network programming they may otherwise find objectionable.

Liberalizing the network ownership cap to exceed the present 25% limit will result in less diversity of ownership, which runs contrary to the goals of the Congress and the Commission. CRTV believes the result would be a series of purchases and mergers which would result in a few large media companies controlling the majority of broadcast voices in the United States.

Today's network-affiliate relationship is a delicate balance of the rights of local broadcasters, who have a responsibility to be responsive to the needs of their viewers, and the networks, where the goal is to maximize the audience and clearances without regard to local needs or interests. One has only to look at new affiliation agreements being struck daily. These agreements include new, minimum program clearance requirements and restrictions of program choices which would have been unthinkable a few years ago.

Adding to the networks' power would only detract from small, local stations' ability to reject network programming and to substitute programming which, in their judgment, better meets the needs of their communities.

CRTV therefore supports suggestions of the three network affiliate associations that the national ownership cap be raised from 25% to 30%, but no higher, with no limit on the number of stations which might be owned to make up the 30% coverage. For the reasons noted above in our discussion of the local ownership rule, there should be no differentiation made between UHF and VHF stations when determining this cap. Maintaining such a policy would allow emerging networks with large numbers of UHF affiliates to subvert the cap and actually reach double the audience reached by operators with mostly VHF stations. Elimination of the UHF 50% audience policy will be especially applicable once broadcasters begin building HDTV facilities, which will be nearly all UHF.

IX. Conclusion

CRTV is pleased that the Commission has undertaken to review its ownership rules at a time when the future of broadcast television stations is threatened on several fronts. CRTV believes the proposals it has advanced offer the Commission a means of enabling local broadcasting to continue its tradition of local service while ensuring continued diversity.

Respectfully submitted,

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